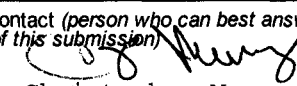


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PAPERWORK REDUCTION ACT SUBMISSION USCG-2004-19421-2

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the Supporting Statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW Washington, DC 20503.

1. Agency/Subagency originating request <u>Dept. of Homeland Security/US Coast Guard</u>		2. OMB control number a. <u>1 6 2 5 - 0 1 0 6</u> b. <input type="checkbox"/> None	
3. Type of information collection (check one) a. <input type="checkbox"/> New collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input checked="" type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number <i>For b-f, note item A2 of Supporting Statement instructions</i>		4. Type of review requested (check one) a. <input checked="" type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by: <u> </u> / <u> </u> / <u> </u> c. <input type="checkbox"/> Delegated 5. Small entities. Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		6. Requested expiration date a. <input checked="" type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: <u> </u> / <u> </u>	
7. Title <u>Unauthorized entry into Cuban territorial waters</u>			
8. Agency form number(s) (if applicable) <u>n/a</u>			
9. Keywords <u>Harbors, Facilities, Maritime security, Vessels, Reporting and recordkeeping requirements</u>			
10. Abstract <u>This rule requires certain U.S. vessels, and vessels without nationality, in U.S. territorial waters that thereafter enter Cuban territorial waters to apply for and receive a permit from the U.S. Coast Guard.</u>			
11. Affected public (Mark primary with "P" and all others that apply with "X") a. <u>P</u> Individuals or households d. <u> </u> Farms b. <u> </u> Business or other for-profit e. <u>X</u> Federal Government c. <u> </u> Not-for-profit institutions f. <u> </u> State, Local or Tribal Gov't		12. Obligation to respond (Mark primary with "P" and all others that apply with "X") a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input checked="" type="checkbox"/> Mandatory	
13. Annual reporting and recordkeeping hour burden a. Number of respondents <u>32</u> b. Total annual responses <u>32</u> 1. Percentage of these responses collected electronically <u>0</u> % c. Total annual hours requested <u>43.0</u> d. Current OMB inventory <u>133</u> e. Difference <u>(90)</u> f. Explanation of difference 1. Program change <u>X</u> 2. Adjustment <u> </u>		14. Annual reporting and recordkeeping cost burden (in thousands of dollars) a. Total annualized capital/startup costs <u>2.530</u> b. Total annual costs (O&M) <u>2.530</u> c. Total annualized cost requested <u>2.530</u> d. Current OMB inventory <u>7.135</u> e. Difference <u>(4.605)</u> f. Explanation of difference 1. Program change <u>X</u> 2. Adjustment <u> </u>	
15. Purpose of information collection (Mark primary with "P" and all others that apply with "X") a. <u> </u> Application for benefits e. <u> </u> Program planning or management b. <u> </u> Program evaluation f. <u> </u> Research c. <u> </u> General purpose statistics d. <u> </u> Audit g. <u>P</u> Regulatory or compliance		16. Frequency of recordkeeping or reporting (check all that apply) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input checked="" type="checkbox"/> Reporting 1. <input checked="" type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) <u> </u>	
17. Statistical methods Does this information collection employ statistical methods? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		18. Agency contact (person who can best answer questions regarding the content of this submission)  Name: <u>Christopher Murray, LT, USCG</u> Phone: <u>(202) 267-1890</u>	

Supporting Statement for OMB Form 83-1B

Coast Guard final rule: Unauthorized entry into Cuban territorial waters

1. Explain the circumstances that make the collection of information necessary.

The President by proclamation and the Secretary of Homeland Security by order have directed and authorized the U.S. Coast Guard to regulate the anchorage and movement of certain U.S. vessels, and vessels without nationality, located within the territorial waters of the United States, that thereafter enter Cuban territorial waters. This rule is necessary to provide for the safety of United States citizens and residents, to improve enforcement of economic sanctions against Cuba, as part of the embargo against the Government of Cuba, and to prevent a threatened disturbance of the international relations of the United States.

The Coast Guard has issued a final rule requires all U.S. registered vessels, and vessels without nationality, less than 100 meters in length to apply for and receive a permit to enter Cuban territorial waters. This permit requirement is necessary to preclude covered vessels from departing U.S. waters and thereafter entering Cuban waters, unless such vessels hold a license from other government agencies that allow them to engage in exports to, and transactions with, Cuba.

Permit applicants must provide certain information to the Coast Guard in order for the regulation to be effective and enforceable.

2. Purpose of the collection.

The information is collected to regulate departure from U.S. territorial waters of U.S. vessels, and vessels without nationality, and entry thereafter into Cuban territorial waters. The need to regulate this vessel traffic supports ongoing efforts to enforce the Cuban embargo, which is designed to bring about an end to the current government and a peaceful transition to democracy. Accordingly, only applicants that demonstrate prior U.S. government approval for exports to and transactions with Cuba will be issued a Coast Guard permit.

The permit regulation requires that applicants hold United States Department of Commerce, Bureau of Industry and Security (BIS) and U.S. Department of Treasury the Office of Foreign Assets Control (OFAC) licenses that permit exports to and transactions with Cuba. The USCG permit process thus allows the agency to collect information from applicants about their status vis-à-vis BIS and OFAC licenses and monitor compliance with BIS and OFAC regulations. These two agencies administer statutes and regulations that proscribe exports to (BIS) and transactions with (OFAC) Cuba. Accordingly, in order to assist BIS and OFAC in the enforcement of these license requirements, as directed by the President and the Secretary of Homeland Security, the Coast Guard is

requiring certain U.S. vessels, and vessels without nationality, to demonstrate that they hold these licenses before they depart for Cuban waters.

3. Considerations of the use of improved information technology to reduce the burden.

The permit process is managed by USCG Seventh District in Miami, FL. Information to assist the applicant is available online, at no cost to the applicant.

4. Describe efforts to identify duplication.

It is unlikely that any duplication will occur. Based upon actual experience and available data for the period 02Jul-30Sep 2004, the period since the Coast Guard established the final rule, each year we anticipate approximately [4] requests will be submitted to the Coast Guard for permission to sail to Cuba. Permit holders must reapply for each trip to Cuba.

5. If the collection of information involves small business or other small entities, describe the methods used to minimize burden.

No significant collection burden will fall on any small entity. Of the approximately [4] vessels we anticipate may request permits each year, we anticipate few or none will seek to enter Cuba for commercial purposes, so the impact of the permit system on small businesses is minimal. Further, the permit is only necessary for vessels actually entering Cuban waters. Vessels traveling in the vicinity of Cuba in international waters are not affected, so international and American commerce will not be significantly affected by the rule.

6. Describe the consequence to Federal program or policy activities if the collection were conducted less frequently.

The collection is made only once at the time of application. Subsequent applications by vessel owners must be reconsidered based on the nature of each trip. Thus, there is no way to make the collection less frequently.

7. Explain any special circumstances that require the collection to be conducted in a manner:

a. Requiring respondent to report more than quarterly.

If an individual applies for a permit more than once in a quarter, they will be required to submit additional applications.

b. Requiring respondents to prepare a written response fewer than 30 days after receipt.

The Coast Guard permit process may be completed without any additional information beyond that required in the initial application.

Unless the application were submitted less than 30 days prior to departure, the Coast Guard would not require a response from an applicant in less than 30 days. The only occasion a written response is required less than 30 days after receipt is when an applicant opts to initiate an appeal following initial denial by the Coast Guard of a permit application.

c. Requiring more than an original and two copies.

None.

d. Requiring retention of records more than three years.

None.

e. In connection with a statistical survey, not designed to produce valid and reliable results.

None.

f. Requiring use of statistical data classification not reviewed and approved by OMB.

None.

g. Includes a pledge of confidentiality.

None.

h. Requiring proprietary trade secrets or other confidential information.

None. The Coast Guard permit does not require specific information so detailed that it could be construed as confidential or a trade secret. The Coast Guard does not require information contained within OFAC and BIS licenses, which could be deemed confidential. Permit applicants must only submit proof to the Coast Guard that the appropriate BIS or OFAC licenses have been issued, so that the Coast Guard may validate such proof with BIS and OFAC.

8. Describe efforts to consult persons outside the agency to obtain their views on the availability of the data, frequency of collection, the clarity of instructions and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or replaced.

The Coast Guard consulted and partnered with the Departments of Commerce and Treasury, and other agencies, during development of the final rule. The Coast Guard received no public comments during the 30-day comment period following publication of the new collection associated with the final rule (69 FR 41367, 41370 (July 8, 2004)).

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

None.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The information required in each application is of a public nature and requires no assurance of confidentiality.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are considered private.

These applications do not contain any questions of a sensitive nature.

12. Provide estimates of hour burden to respondent.

Each applicant will submit information that should be readily available. Each applicant should take no more than a quarter hour to provide the required information.

13. Provide an estimate of the total annual cost burden to respondents.

Based on actual experience and data available to the Coast Guard for the period 02Jul-30Sep 2004, the period since the final rule was effective, assuming [4] permit requests each year, the collection will take approximately 1.0 hour for all applications. At \$55 (GS-13) per hour labor cost, and 15 minutes to submit required information, the cost is approximately \$220.00 annually to all respondents.

The total annual collection of information costs to all respondents from permit application requirements is approximately \$220.00.

Based upon actual experience and data available to the Coast Guard for the period 02Jul-30Sep 2004, the period since the final rule was effective, we anticipate [28] boardings per year that may involve inspection for compliance with the final rule. On average, each boarding takes 90 minutes for officers to check for permits and other documents, for an annualized time of 42 hours. The total annual costs to vessel operators, at \$55/hr (gov't GS-13), of boarding [28] vessels are approximately \$2,310.00

The total annual collection of information costs to all respondents from USCG boarding activities to inspect for compliance with the final rule is approximately \$2,310.00.

The total annual collection of information costs to all respondents from permit application requirements and USCG boarding activities are approximately \$2,530.00.

14. Provide estimates of annualized costs to the federal government.

The cost to the Coast Guard of collecting the information stems from processing applications and boarding events.

Based upon the actual experience and data available to the Coast Guard for the period 02Jul-30Sep 2004, the period since the final rule was effective, the cost of processing [4] permits is no more than two hours per permit. At \$43 per hour (O-3), the cost of processing [4] permits each year is approximately \$344.00 annually.

Based upon the actual experience and data available to the Coast Guard for the period 02Jul-30Sep 2004, the period since the final rule was effective, the cost to the Coast Guard of conducting [28] 90-minute boardings at \$43/hr (O-3) is approximately \$1,806.00.

The total costs to the federal government associated with processing permits and conducting compliance boardings are approximately \$2,150.00.

15. Explain reasons for any program changes or adjustments reported in Items 13 or 14.

The former local procedure, in effect prior to the July 2004 final rule, had applied to vessels 50 meters in length or smaller, and only such vessels within that category that may have threatened a disturbance of international relations. Covered vessels determined not to threaten a disturbance of international relations normally were authorized to depart for Cuba, at a rate of several hundred per year.

The new July 2004 regulatory requirement has changed the program such that it applies to covered vessels less than 100 meters in length. Potential threatened disturbances of international relations are only one factor now considered in the permit process, in addition to review of the export and transaction licenses described above. The result of this program change has been a reduction in number and rate of applicants. This result was expected, and aligns with U.S. national security and foreign relations policy to regulate all U.S. vessels, and vessels without nationality, that may travel to Cuba.

16. Outline plans for tabulation, statistical analysis, and publication.

The information collected from these applications for permits will not be used for statistical analysis.

17. If seeking approval to not display the expiration data for OMB approval, explain reasons display would be inappropriate.

N/A

18. Explain each exception to the certification statement identified in Item 19.

None.

**REQUEST FOR EXTENSION OF EXISTING
COLLECTION OF INFORMATION**

OMB Control Number: 1625-0106
Title: Coast Guard final rule: Unauthorized entry
into Cuban territorial waters
Last approved: 07/02/2004
Expiration date: 01/31/2005

Justification

On March 1, 1996, the President of the United States signed Proclamation 6867 ('`Proclamation 6867''), declaring a national emergency following the February 24, 1996, shooting down of two Brothers to the Rescue aircraft by Cuban armed forces (61 FR 8843). In Proclamation 6867, which addressed the disturbances or threatened disturbances of United States international relations, the President authorized the Secretary of Transportation to regulate the anchorage and movement of domestic and foreign vessels (61 FR 8843). Order No. 96-3-7, signed by the Secretary of Transportation, delegated this authority to the Commandant, United States Coast Guard (61 FR 9219). This authority was further delegated to the Commander, Seventh Coast Guard District and appropriate Captains of the Port (61 FR 9219).

On February 26, 2004, in Proclamation 7757 (69 FR 9515), the President of the United States expanded the scope of the national emergency and emergency authority declared in Proclamation 6867, and amended the reasons for which there exists a disturbance or threatened disturbance of the international relations of the United States.

The President has determined that the unauthorized entry of U.S.-registered vessels and vessels subject to the jurisdiction of the U.S. (which includes, but is not limited to, vessels without nationality pursuant to 46 U.S.C. App. 1903) into Cuban territorial waters is detrimental to the foreign policy of the United States, which is to deny monetary and material support to the repressive Government of Cuba, and that such unauthorized entries could threaten a disturbance of the international relations of the United States by facilitating Cuban government support of terrorism, the use of excessive or deadly force, and the continued existence of the Cuban government. Thus, the President continued and expanded the basis for continuing the declared emergency and the finding of a threatened disturbance of the international relations of the United States to include the unauthorized entry of certain vessels of the United States into Cuban territorial waters.

In Order 2004-001 (69 FR 41365), the Secretary of Homeland Security delegated to the Commandant of the Coast Guard and, subject to the direction of the Commandant, to the several Coast Guard Area and District Commanders, the authority to make such rules and regulations, and vested in the Commandant and those officers all powers and authorities given to the Secretary in Proclamation 7757. This

delegation to the Coast Guard from the Secretary necessarily includes the authority to establish and enforce rules and regulations regarding the movement and anchorage of certain vessels of the United States, and vessels without nationality, in U.S. territorial waters, including a requirement for the owners, agents, masters, officers, persons in charge, and members of the crew of such vessels to present evidence of compliance with the regulations implementing economic sanctions against Cuba as a condition of usage of, and operations in, U.S. territorial waters.

On July 8, 2004, the Coast Guard published its final rule implementing Proclamations 6867, 7757, and Secretary Order 2004-001 (69 FR 41367). This rule applies to vessels of the United States (individually or corporately owned), and vessels without nationality, less than 100 meters (328 feet) in length (and all associated auxiliary vessels) and the owners, agents, masters, officers, persons in charge, and members of the crew of vessels of the United States and vessels without nationality, located within U.S. territorial waters that depart those waters and thereafter enter Cuban territorial waters, regardless of whether such entry is made after an intervening entry into, passage through, or departure from any other foreign territory or territorial waters. Accordingly, the rule continues to apply to a covered vessel that departs U.S. territorial waters and enters the territorial waters of a third country before entering Cuban waters. The rule may be enforced against U.S. vessels or vessels without nationality that have operated within the U.S. 12 nautical mile territorial sea or inland waters before entering Cuban territorial waters. This rule does not apply to warships, foreign vessels, other public vessels operated for non-commercial purposes, or U.S. vessels entering Cuban territorial waters under force majeure.

Vessels and persons to which the rule applies cannot move within or depart U.S. territorial waters and thereafter enter Cuban territorial waters without a Coast Guard permit. If issued, the permit must be kept on board the vessel. The Coast Guard may issue appropriate orders to control the movement and anchorage of all vessels covered by the rule. Additionally, the Coast Guard may remove all persons not specifically authorized by the Coast Guard to go or remain on board covered vessels, may place guards on covered vessels, and may take full or partial possession or control of any such vessel or part thereof. Such actions to be taken are in the discretion of the Coast Guard as deemed necessary to ensure compliance with the provisions of the rule or any other order issued under the authority of the rule. Nothing in this rule precludes the Coast Guard, or any other agency, from taking action pursuant to any other applicable authority.

Even if a covered vessel has not applied for a permit, where there is an articulable basis to believe that the vessel intends to enter Cuban territorial waters, as a condition of moving in or departing from U.S. territorial waters, the Coast Guard has the discretion to require the owner, agent, master, officer, or person in charge, or any member of the crew of any covered vessel to provide verbal assurance to the Coast Guard that the vessel will not enter Cuban territorial waters. Likewise, the Coast Guard may require the owners, agents,

10/12/2004

masters, officers, or persons in charge of covered vessels to identify all persons on board the vessel and provide verbal assurances that all persons on board have received actual notice of these regulations. The failure of an owner, agent, master, officer, or person in charge, or any member of the crew of any vessel (including all auxiliary vessels) to provide requested verbal assurances shall not be used as the sole basis for seizing the vessel for forfeiture under this rule. Additionally, where there is an articulable basis to believe that a covered vessel located in U.S. territorial waters intends to enter Cuban territorial waters; the Coast Guard may require that the vessel apply for a permit as a condition of departure.

In order for covered vessels to receive a Coast Guard permit to enter Cuban territorial waters, the Coast Guard requires the permit application to include a copy of a valid and applicable license issued to the applicant by the U.S. Department of Commerce, Bureau of Industry and Security (BIS), pursuant to the Export Administration Regulations, 15 CFR chapter VII, subchapter C, parts 730-774 for the export of the vessel to Cuba. The Coast Guard also requires the permit application to include a copy of a valid and applicable specific license issued by the U.S. Department of the Treasury (OFAC), pursuant to the Cuban Assets Control Regulations, 31 CFR part 515, authorizing the applicant's travel-related transactions in Cuba. Applicants who do not require such an OFAC specific license are required to make a written certification to that effect identifying which OFAC general license applies or explaining why no OFAC license is required. Applications must provide the documentation required for each person to which this rule applies on board the particular vessel. The Coast Guard works closely with OFAC and BIS to ensure alignment of effort in the enforcement of the economic sanctions against Cuba. This allows the Coast Guard to ensure that its decisions on permits for entry into Cuban territorial waters are made in a manner which is consistent with the decisions of those agencies responsible for economic sanctions enforcement.

Applicants may apply to the Chief of Operations, Seventh Coast Guard District in Miami, FL, for a permit. Applicants may mail or fax the required information and documentation for a permit to the Chief of Operations, Seventh Coast Guard District in Miami, FL. The Commander, Seventh Coast Guard District, may make available to the public documents and other information that may aid the public in the application process. There is no required form.

Even if an applicant provides all of the information and documentation required by this rule in the permit application, the Coast Guard nevertheless will consider any available information that reasonably supports a conclusion that entry by the vessel or persons on board into Cuban territorial waters might: Subject the vessel or persons on board to the use of excessive or deadly force by the Government of Cuba; result in unauthorized transactions; or threaten a disturbance of the international relations of the United States. In such a case, the Coast Guard intends to consult with other appropriate agencies prior to taking final agency action.

10/12/2004

REQUEST FOR EXTENSION

The Coast Guard requests a three-year extension of the subject collection of information. Extension will allow the Coast Guard to continue to collect the information required to process permit applications of U.S. vessels, and vessels without nationality, that seek entry into Cuban territorial waters, per the requirements of the Coast Guard final rule. The Coast Guard requests OMB approve this extension on or before January 31, 2005.